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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,754	09/10/2001	Caroline Boursaux-Eude	03495.0206	8881

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EXAMINER
NAVARRO, ALBERT MARK

ART UNIT	PAPER NUMBER
1645	16

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/855,754	Applicant(s) Boursaux-Eude et al
	Examiner Mark Navarro	Art Unit 1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____.

2a) ☐ This action is **FINAL.** 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *56-97* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☐ Claim(s) _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☒ Claims *56-97* are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)
16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
18) ☐ Interview Summary (PTO-413) Paper No(s). _____
19) ☐ Notice of Informal Patent Application (PTO-152)
20) ☐ Other:

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 56-61, 78-80, 82, 84, and 89-94, drawn to immunogenic compositions comprising pertactins of Bordetella bronchiseptica, classified in class 424, subclass 184.1.

II. Claims 56-61, 78-80, 82, 84, and 89-94, drawn to immunogenic compositions comprising pertactins of Bordetella parapertussis, classified in class 424, subclass 184.1.

III. Claims 56-61, 78-80, 82, 84, and 89-94, drawn to immunogenic compositions comprising pertactins of Bordetella pertussis, classified in class 424, subclass 184.1.

IV. Claims 62-63 and 76-77, drawn to polypeptides, classified in class 530, subclass 350.

V. Claims 64-66 and 81, drawn to polynucleotides, classified in class 536, subclass 23.7.

VI. Claims 67-69, drawn to antibodies, classified in class 530, subclass 387.1.

VII. Claim 70, drawn to an immunological complex of a polypeptide and an antibody, classified in class 424, subclass 178.1.

VIII. Claims 71-72, drawn to methods of detecting infection by Bordetella comprising detecting a polypeptide, classified in class 435, subclass 7.1.

IX. Claims 73-75, drawn to a diagnostic method comprising detecting antibodies, classified in class 435, subclass 7.4.

X. Claim 83, drawn to a method for the detecting of Bordetella comprising detecting DNA, classified in class 435, subclass 6.

XI. Claim 85, drawn to a composition comprising a pertactin of pertussis, a partactin of parapertussis and a pertactin of bronchiseptica, classified in class 424, subclass 203.1.

XII. Claims 86-88, drawn to a composition of a pertactin of bronchiseptica, a FHA of bronchiseptica and a pertactin of parapertussis, classified in class 424, subclass 203.1.

XIII. Claim 95, drawn to a method of treating Bordetella infections, classified in class 424, subclass 184.1.

XIV. Claims 96-97, drawn to microarrays and DNA chips, classified in class 536, subclass 23.1.

Additionally Groups I-XIV are further restricted according to MPEP 803.04 which sets forth that biological molecules with different sequences are separate inventions. Accordingly, Groups I-XIV are further restricted to a single protein sequence, (e.g., SEQ ID NO: 7, 8, 9, 14, 15, 16, 17, 18, 19, 20, 21 or 22), or a single DNA sequence encoding a single protein, or a

single antibody species which binds a single protein, or a method of treatment with a single protein, etc.

2. The inventions are distinct, each from the other because of the following reasons:

Group I is distinct from Inventions II-XIV, since it requires a distinct protein with a distinct biological structure and activity.

Group II is distinct from Inventions I and III-XIV, since it requires a distinct protein with a distinct biological structure and activity.

Group III is distinct from Inventions I-II and IV-XIV, since it requires a distinct protein with a distinct biological structure and activity.

Group IV, is distinct from Inventions I-III, and V-XIV, since it requires a distinct protein with a distinct biological structure and activity.

Group V, is distinct from Inventions I-IV, and VI-XIV, since it comprises nucleotides which are structurally different from amino acids.

Group VI, is distinct from Inventions I-V, and VII-XIV, since it requires protein which exhibits a given affinity, avidity and specificity for a given epitope that a simple polypeptide does not exhibit.

Group VII, is distinct from Inventions I-VI, and VIII-XIV, since it requires a distinct structure of a complex with a given activity.

Group VIII, is distinct from Inventions I-VII, and IX-XIV, since it requires additional biological reagents and parameters for the detection of the polypeptide.

Group IX, is distinct from Inventions I-VIII, and X-XIV, since it requires additional biological reagents and parameters for the detection of the antibody.

Group X, is distinct from Inventions I-IX, and XI-XIV, since it requires additional biological reagents and parameters for the detection of the DNA.

Group XI, is distinct from Inventions I-X, and XII-XIV, since it requires a distinct combination of proteins with a distinct biological structure and activity.

Group XII, is distinct from Inventions I-XI, and XIII-XIV, since it requires a distinct combination of proteins with a distinct biological structure and activity.

Group XIII, is distinct from Inventions I-XII, and XIV, since it requires additional biological reagents and parameters for determining efficacy.

Group XIV, is distinct from Inventions I-XIII, since it requires additional biological reagents for the generation of a chip.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their separate classification and their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Finally, Applicant's are reminded that all amino acid sequences of four or greater amino acids are requried to be identified by a SEQ ID NO: tag. Appropriate correction to the sequences recited in claims 59 and 61is requried should this groups be elected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Navarro whose telephone number is (703) 306-3225.

Mark Navarro

Primary Examiner

April 15, 2002